

## PAKISTAN

Pakistan is not a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, or to the International Covenant on Civil and Political Rights, or its First or Second Optional Protocols. At the end of 2001, Pakistan hosted more than 2.2 million refugees, the majority of whom were from Afghanistan.<sup>1</sup> After decades of hosting more refugees than any other country in the world, Pakistan has taken an extremely tough stance against refugees. Pakistan's shift in refugee policy occurred even before the events of September 11, 2001. The steadily increasing influx of Afghan refugees, combined with decreased international donor support and the country's economic problems, fueled anti-refugee sentiments in Pakistan's refugee-concentrated regions and its government.<sup>2</sup>

Pakistan officially closed its border with Afghanistan in November 2000, citing an inability to take in the thousands of continually arriving refugees.<sup>3</sup> Prior to that time, Afghans were considered as *prima facie* refugees.<sup>4</sup> In January 2001, the governor of Pakistan's North West Frontier Province (NWFP), where most refugees arrive, issued public orders empowering the police to detain and deport newly arrived Afghans in the NWFP and all undocumented Afghans already within the borders. These orders were subsequently issued by the federal government as well.<sup>5</sup> In July 2001, Pakistani authorities and UNHCR began a screening program for new arrivals at camps located in Jalozi and on the outskirts of Peshawar. Under the terms of the agreement, Pakistan would permit those who are screened in to remain temporarily, but deport to Afghanistan those who are screened out.<sup>6</sup>

Pakistan has no specific refugee law. Many of the existing laws actually undermine the right to asylum. The Foreigners Order of October 1951 gives the power to grant entry to

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<sup>1</sup> U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 144, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

<sup>2</sup> U.S. Committee for Refugees, PAKISTAN: AFGHAN REFUGEES SHUNNED AND SCORNNED 5 (Sept. 2001) [hereinafter USCR PAKISTAN REPORT].

<sup>3</sup> Human Rights Watch, CLOSED DOOR POLICY: AFGHAN REFUGEES IN PAKISTAN AND IRAN (Vol. 14 Feb. 2002) at 19 [hereinafter CLOSED DOOR POLICY].

<sup>4</sup> *Id.* at 26.

<sup>5</sup> USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 145.

<sup>6</sup> USCR PAKISTAN REPORT, *supra* note 2, at 9.

Pakistan to civil authorities at the border. Under the Foreigners Order, foreigners who are not in possession of proper identity documents can be refused leave to enter.<sup>7</sup>

The majority of Afghan refugees in Pakistan are undocumented. Because they lack legal status, they are at risk of being harassed and detained by the Pakistani police. In a 2002 report, Human Rights Watch provided various accounts of mistreatment of Afghans by the police, including detention for the purpose of extorting money from the detainee's family. Afghans are also detained under the Foreigners Order, which allows for the "arrest of any foreigner without warrant."<sup>8</sup> Even before Pakistan closed its borders in November 2000, Pakistani authorities had embarked on a campaign of harassment against Afghan refugees. In the cities, police had increased the frequency of extortion, detention and refoulement.<sup>9</sup> After the NWFP decree in early 2001, the authorities rounded up, detained and forcibly returned thousands of Afghans. Detainees were not given the opportunity to notify their families. According to a 2001 UN-commissioned study, the government's public endorsement of mass detention increased police corruption.<sup>10</sup>

The mass detention/deportation policy has created an environment of fear and anxiety. Those who cannot pay the bribes of the policy, often very high amounts, are officially charged as aliens under the Foreigners Act. Under the new policy, stopping Afghans on the street has reportedly become a regular practice. One refugee interviewed by USCR reportedly spent three months in prison before his family raised the 30,000 rupees (\$480) in bribes and attorney's fees in order to effectuate his releases. He told USCR that there were as many as 500 Afghans in detention at the prison on any given day.<sup>11</sup>

*Is there independent review of the detention decision?* No.

Section 15 of the Foreigners Order requires that the reasons for the proscribed detention be forwarded to the federal government. According to the 2002 Human Rights Watch report, however, Afghan and Pakistani NGOs report that this procedural requirement is rarely met.

*Are there limits on the period of detention?* None discovered in research.

*Is there periodic review of detention?* None discovered in research.

*Is there access to government-funded legal aid?* None discovered in research.

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<sup>7</sup> CLOSED DOOR POLICY, *supra* note 3, at 20.

<sup>8</sup> *Id.* at 27.

<sup>9</sup> USCR PAKISTAN REPORT, *supra* note 2, at 24, 26, 28-29.

<sup>10</sup> *Id.* at 29.

<sup>11</sup> *Id.* at 30.

